

NOV 16 2006

REMARKS

In the communication mailed November 3, 2006, in the above application, it was asserted that the response filed on June 27, 2006, was non-responsive since it failed to specifically point out the support in the original disclosure for each of the newly presented claim limitations. In the remarks that follow, for ease of reference the support in the original disclosure for the claims is identified by the paragraph number of the publication of the original disclosure of the present application as found in U.S. Patent Application Publication No. 2005/0171539.

The amendments to claim 1 find support throughout the specification, originally filed claims and the drawings. The recitation that the body includes first and second ends "along a longitudinal axis spaced by a length sized for attachment" to respective ones of first and second vertebrae finds support in the specification at paragraphs [0039], [0050], [0055], [0065], [0066], in the drawings associated with at least those portions of the specification, and in originally filed claims 8, 18 and 22, for example. The recitation in claim 1 of "with said length further sized so that said body maintains separation of the first and second vertebrae when attached to the first and second vertebrae" finds support throughout the specification at, for example, paragraphs [0007], [0041], [0042], [0060], [0061], [0064] and [0068], and in the drawings associated with those portions of the specification.

The recitation of "body" in claim 2 finds support throughout the specification and drawings, and has antecedent basis in original claim 1, for example.

The amendments to claim 27 find support throughout the specification, the originally filed claims and the drawings. The recitation that the body includes a length along a longitudinal axis "extending between opposite first and second ends when said body is in a first condition" finds support in paragraphs [0007], [0041], and [0064] for example. The recitation in claim 27 of "wherein said body is longitudinally compressed between said opposite ends with said compressed length sized for implanting said body" and that the body reforms from the second condition "toward said length" of said first condition when implanted and "released from said compression" finds support throughout the specification at, for example, paragraphs [0042], [0060], [0061] and [0068], and the drawings associated therewith.

Supplemental Response to First Office Action
Serial. No. 10/768,797
Atty. Docket No. MSDI-682/PC798.00
Page 2 of 4

The amendments to claim 45 find support throughout the specification, the originally filed claims and the drawings. The recitation of the body "including a length between opposite first and second ends sized for attachment to" said first and second anchors finds support in the specification at paragraphs [0039], [0050], [0055], [0065], [0066], and in the drawings associated with at least those portions of the specification, and in originally filed claim 46, for example. The recitation in claim 45 of said body being structured "with said opposite ends biased away from one another against said first and second anchors" finds support throughout the specification at, for example, paragraphs [0007], [0041], [0042], [0060], [0061], [0064] and [0068], and in the drawings associated with those portions of the specification.

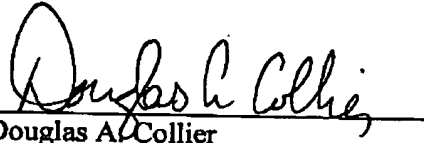
Support for new claims 81-101 was indicated in the previous response. With respect to independent claims 81, 90, and 95, claim 81 finds support in at least original dependent claim 21 including its base claim and intervening claims. Claim 90 finds support in original dependent claim 31 and its base claim and intervening claims. Claim 95 finds support in original dependent claim 32 and its base claim and intervening claims.

Support for the claims depending from the new independent claims is also provided in the original claims and in the specification and drawings. Claim 82 finds support at paragraphs [0039], [0050], [0055], [0065], [0066], and in the drawings associated with at least those portions of the specification. Claims 83, 84, 85, 86, 87, 88 and 89 find support in original claims 20, 2, 3, 4, 5, 8, and 9, respectively, and throughout the specification and drawings. Claims 91, 92, 93 and 94 find support in original dependent claims 34, 5, 37, and 38, respectively, and throughout the specification and drawings. Claims 96, 97, 98, 99, 100, and 101 find support in original dependent claims 34, 31, 35, 36, 37, and 38, respectively, and throughout the specification and drawings.

NOV 16 2006

Consideration of the present application including claims 1-39, 41-50 and 81-101 is respectfully requested. Action toward a Notice of Allowance is hereby solicited. The Examiner is encouraged to contact the undersigned to resolve any outstanding issues with regard to the present application.

Respectfully submitted,

By: 
Douglas A. Collier
Reg. No. 43,556
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204-2079
(317) 238-6333 (voice)

Supplemental Response to First Office Action
Serial. No. 10/768,797
Atty. Docket No. MSDI-682/PC798.00
Page 4 of 4